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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,273	03/16/2004	Jaime E. Garcia	JK01488A	2972

28268 7590 08/08/2007  
THE BLACK & DECKER CORPORATION  
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EXAMINER
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LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/801,273

Applicant(s)

GARCIA ET AL.

Examiner

Edward F. Landrum

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 6, 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumpf et al (U.S Patent No. 5,943,931), hereinafter Stumpf, in view of Ito et al (U.S Patent No. 5,357,834), hereinafter Ito, and in further view of Hurn et al (U. S Patent No. 5,850,698), hereinafter Hurn.

Regarding claim 1, Stumpf teaches (see Figure 1) a miter saw (10) comprising a base (12), a work piece positioning fence (32 and 34) attached to the base (12), a cutting assembly (around 16) pivotally attached to the miter saw. A motor (20) is drivingly connected to the arbor of the saw blade (16) and configured so as to not contact any portion of the base or fence (32 and 34) when the mitering at least 45 degrees from a plane substantially perpendicular to the work piece positioning fence (see Figure 7, 21c, and 21d). A blade guard (18) surrounds the blade.

Regarding claim 4, Stumpf teaches (see Figure 1) the casing enclosing the driving assembly (attached to motor 20) appears to be tapered in relation to the base.

Regarding claim 6, Stumpf teaches (see Figure 1) a turntable (14) pivotally mounted to the base (12; also see Col. 4, lines 50-53).

Regarding claim 7, Stumpf teaches (Col. 4, lines 29-30) the miter saw is a sliding compound miter saw that can bevel (see Figure 7).

Stumpf teaches all of the elements of the current invention as stated above except the use of a gear assembly and a motor orientated substantially perpendicular to the miter saw and the motor being located between the blade guard and the work piece positioning fence.

Hurn teaches (see Figure 2) a motor (15) oriented substantially perpendicular to an arbor (21) in a circular saw. A gear assembly is used to transfer the rotational power of the motor to the saw blade (28).

Ito teaches (see Figure 2; Col. 6, lines 14-19) teaches that it is old and well known in the cutting art to place the motor (41) and gear assembly of a miter saw between blade guard (31) and the work piece positioning fence (6) to allow for a 45 degree bevel cut while still preventing the motor (41) from contacting the work piece positioning fence.

It would have been obvious to have modified Stumpf to incorporate the teachings of Hurn and Ito to use an established method of transferring the rotational motion generated by the motor to the saw blade while still allowing the saw blade to bevel to the degree that was originally presented by Stumpf.

3. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Stumpf, as stated in section 2, in view of Avakian (U.S Patent No. 3,611,859).

The modified device of Stumpf teaches all of the elements of the current invention as stated above except for the gear assembly containing a helical and bevel gears as well as a jackshaft.

Avakian teaches (Col. 2, lines 20-27) a helical gear set, one of which is mounted on a shaft (74) which drives a bevel gear to transfer rotational motion from one section of the machine to another section.

It would have been obvious to have modified the modified device of Stumpf to incorporate the teachings of Avakian to incorporate a helical/bevel gear assembly with a jack shaft between each assembly for the purpose of transferring rotational motion generated by the motor, which is offset from the rotational axis of the saw, to the arbor and still allow the location of the motor to not interfere with the ability of the saw to bevel.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Stumpf, as stated in section 3, in view of Hollinger et al (U.S Patent No. 6,615,701), hereinafter Hollinger.

The modified device of Stumpf teaches all of the elements of the current invention as stated above except for a trunnion being disposed between the cutting assembly and the turntable so as to permit the cutting assembly to bevel with respect to the base.

Hollinger teaches (Col. 4, lines 50-51; also see Figure 4) a trunnion (32) mounted between the base and the cutting assembly.

It would have been obvious to have modified the modified device of Stumpf to incorporate the teachings of Hollinger to use a trunnion for the purpose of allowing the cutting assembly to easily be moved to different angular orientations with respect to the base so a user could use the saw to make a variety of different cuts.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brunson et al (U.S Publication No. 2001/0042429), Brunson (U.S Patent No. 6,474,206), Sasaki et al (U.S Patent No. 5,564,323), Bergler (U.S Patent No. 4,537,105), and Itzov (U.S Patent No. 5,865,079) all teach miter saws including various elements of the disclosed invention.

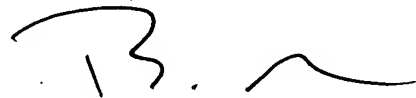
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EFL  
7/27/2007

A handwritten signature in black ink, appearing to be 'EFL', written over the typed name and date.A handwritten signature in black ink, appearing to be 'B. Ashley', written over the typed name.

BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER